

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEREK TURNER,

Plaintiff,

Case No. 1:09-cv-665

v.

Honorable Paul L. Maloney

CINDI S. CURTIN et al.

Defendants.

ORDER

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. On September 30, 2009, the Court entered an order requiring Petitioner to file an amended complaint on the form provided by the Court (docket #6). The Court allowed thirty days for Plaintiff to comply. Plaintiff was warned that if he failed to comply, the Court would dismiss his case without prejudice. Because Plaintiff failed to comply with the Court's order, the Court issued an order and judgment on November 13, 2009, dismissing the case without prejudice for lack of prosecution.

On November 19, 2009, the Court received Plaintiff's amended complaint along with a letter from Plaintiff dated November 16, 2009 (docket #9), in which he claimed that he was making his fourth attempt to mail his amended complaint. In that letter and two subsequent letters (dockets ##10 and 11), Plaintiff complains of ongoing problems with the prison mail system. He claims that his first two attempts to mail his amended complaint were returned for insufficient postage. Because it appears that Plaintiff was not at fault for the delay in filing his amended complaint, Plaintiff's action will be reopened for further proceedings. Therefore:

IT IS ORDERED that the Court's order and judgment dismissing this action are VACATED and the case is REOPENED for further proceedings.

IT IS FURTHER ORDERED that the Clerk of the Court shall accept Plaintiff's amended complaint (docket #9-2) for filing.

Dated: December 9, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge